

OGC Has Reviewed

3 February 1954

Memorandum for: Special Assistant to DD/A

Subject: Executive Order 9835.

1. Reference is made to your memorandum to me dated 2 February 1954, subject as above.

2. On 27 January 1954 we sent a memorandum to the Director of Security (with a copy to the Chief, Regulations Control Staff) on substantially the same subject. I am quoting paragraphs 2 and 3 of that memorandum herewith with the thought that they will answer the questions you have in mind. *Change 27 Jan.*

"The White House memorandum of 13 March 1948, which is quoted in Regulation number 10-11 states that the efficient administration of the Employee Loyalty Program under Executive Order 9835 requires that reports, records and files relative to the program be preserved in strict confidence. The memorandum directs that these files shall be maintained in confidence and that any subpoena or demand or request for information received from sources other than those persons in the executive branch of the Government who are entitled to the information by reason of their official duties, shall be respectfully declined and referred to the office of the President for such response as the President may determine to be in the public interest in the particular case.

"It has been our opinion that this directive by the President is still in effect, notwithstanding the fact that Executive Order 9835 has now been replaced by Executive Order 10450. To confirm our opinion we have discussed the matter with Mr. Pollock of the Justice Department, the official charged by that Department with responsibility for advising executive departments in the administration of Executive Order 10450. Mr. Pollock has informed us that the White House memorandum and the directive contained therein are still in effect and to the best of his knowledge will not be rescinded in the foreseeable future, although certain modifications are planned. For these reasons we are of the opinion that Regulation number 10-11 may continue in its present form until these modifications have been published."

Walter L. Pforzheimer

Legislative Counsel

MEMORANDUM FOR: Legislative Counsel

2 February 1954

SUBJECT : Executive Order 9835

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1. The Director of Security points out a relatively minor impasse in the revision of [REDACTED] caused by the apparent revocation of Executive Order 9835 by Executive Order 10450. In spite of the apparent revocation, the Director of Security believes that Congressional Committees and Government agencies are governed by the provisions of White House Memorandum, dated 13 March 1948, which although based by reference upon Executive Order 9835, sets out definite procedural requirements with regard to the safeguarding of these files.

2. I would appreciate if you would look into this matter and advise me on the following points:

a. Is Executive Order 9835 and/or the Executive Memorandum of 13 March 1948 still in effect either in a legal sense or as a practical matter in the absence of a new Executive Order, or is there actually a void on this area at the present time?

b. Is a new Executive Order being written or is other action being taken to cover this subject? If so, when is it likely to be completed?

3. The answers to these questions will probably determine whether or not we should attempt to publish a new Agency regulation on this subject at this time.

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Special Assistant to DD/A

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